

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202005786	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/23/2020 3:12 AM	Location of Incident: § 87(2)(b)	18 Mo. SOL 5/4/2022	Precinct: 63		
Date/Time CV Reported Sun, 08/23/2020 5:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 08/23/2020 5:05 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Michael Cioffi	24252	963217	063 PCT
3. SGT Gary Leite	05022	948376	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Diaz	08295	960457	063 PCT
2. POM John Brennan	12838	960275	063 PCT
3. POM Peter Provenzano	02084	963703	063 PCT
4. POM Christopher Schlitt	11229	952221	063 PCT
5. POM Jonathan Andrews	13337	952413	063 PCT
6. POM Peter Woodburn	04602	947617	063 PCT
7. POF Randi Knepper	12582	967569	063 PCT
8. POM Dean Perez	04494	965826	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite stopped § 87(2)(b)	§ 87(2)(b)
B . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite stopped § 87(2)(b)	§ 87(2)(b)
C . SGT Gary Leite	Force: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite pointed his gun at § 87(2)(b)	§ 87(2)(b)
D . POM Michael Cioffi	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Cioffi pointed his gun at § 87(2)(b)	§ 87(2)(b)
E . Officers	Force: At § 87(2)(b) in Brooklyn, officers pointed their guns at § 87(2)(b)	§ 87(2)(b)
F . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite frisked § 87(2)(b)	§ 87(2)(b)
G . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite frisked § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite searched § 87(2)(b)	
I . POM Michael Cioffi	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Michael Cioffi searched § 87(2)(b)	
J . SGT Gary Leite	Abuse: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
K . SGT Gary Leite	Abuse: At the 63rd Precinct stationhouse in Brooklyn, Sergeant Gary Leite searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

Case Summary

On August 23, 2020, § 87(2)(b) filed this complaint with the CCRB via the website on behalf of himself and § 87(2)(b).

At approximately 3:12 a.m. on August 23, 2020, § 87(2)(b) and several of their friends were hanging out in front of § 87(2)(b) in Brooklyn. § 87(2)(b) had double-parked his vehicle, a white Nissan sedan, in front of the building. Two unidentified officers drove by the building in a marked SUV. They told § 87(2)(b) to move his vehicle before driving off. § 87(2)(b) and § 87(2)(b) got into § 87(2)(b) vehicle, intending to move it. Before they could pull out, however, several police vehicles drove up with their lights and sirens running. Several officers exited the police vehicles and pointed their guns at § 87(2)(b) vehicle (**Allegations A and B: Abuse of Authority – Stop, § 87(2)(g) Allegations C, D and E: Force – Guns pointed, § 87(2)(g) Officers frisked and searched § 87(2)(b) and § 87(2)(b) (Allegations F and G: Abuse of Authority – Frisk § 87(2)(g) and § 87(2)(g) Allegations H and I: Abuse of Authority – Search, § 87(2)(g) They also searched § 87(2)(b) vehicle (Allegation J: Abuse of Authority – Vehicle search, § 87(2)(g) They found a shell casing and an open bottle of tequila.**

Both civilians were transported to the 63rd Precinct stationhouse. There, a second vehicle search was conducted (**Allegation K: Abuse of Authority – Vehicle search, § 87(2)(g) § 87(2)(b) and § 87(2)(b) were issued summonses for having open containers of alcohol (Board Review #01-02). § 87(2)(b) was released from the stationhouse, while § 87(2)(b) was kept in custody after it was found that he had an active bench warrant from an unrelated case.**

The investigation obtained sixteen clips of body-worn camera (BWC) footage from this incident. It is attached in IA #30 (Board Review #03) and summarized in IA #34 (Board Review #04). § 87(2)(b) also provided cell phone footage that he recorded. It is attached in IA #3, #26 and #28 (Board Review #05-07) and summarized in IA #6 (Board Review #08).

Findings and Recommendations

Allegation (A) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite stopped § 87(2)(b)

Allegation (B) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite stopped § 87(2)(b)

Allegation (G) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite frisked § 87(2)(b)

Allegation (J) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) was interviewed by the CCRB on August 31, 2020. § 87(2)(b) was interviewed by the CCRB on September 2, 2020. § 87(2)(b) provided a telephone statement on September 9, 2020 (Board Review #09). The investigation was unable to obtain a statement from the anonymous 911 caller (Board Review #10). Sergeant Leite was interviewed by the CCRB on June 9, 2021. Police Officer Cioffi was interviewed by the CCRB on July 21, 2021.

It is undisputed that several civilians, including § 87(2)(b) and § 87(2)(b) gathered in front of § 87(2)(b) in Brooklyn at around 3:12 a.m. on August 23, 2020. § 87(2)(b) double-parked his vehicle in front of the location. An anonymous male who observed the group from a nearby window called 911 and reported that one of the people in the group was armed. A

police dispatcher broadcast a description of the suspects over the radio. Sergeant Leite, Police Officer Cioffi and several other officers drove to the location. Sergeant Leite was the ranking supervisor on-scene. At the time, § 87(2)(b) was sitting in the driver's seat of his vehicle and § 87(2)(b) was sitting in the front passenger's seat. Nobody else was in the vehicle. Sergeant Leite and Police Officer Cioffi ordered them to exit the vehicle. § 87(2)(b) and § 87(2)(b) complied. The officer moved the civilians to the rear of the vehicle and then searched the passenger cabin of § 87(2)(b) vehicle.

§ 87(2)(b) and § 87(2)(b) all stated that they were part of the group gathered in front of § 87(2)(b). § 87(2)(b) and § 87(2)(b) denied that anybody had or used marijuana in the group. § 87(2)(b) did not mention marijuana in his statement. Shortly before Sergeant Leite and the other officers arrived and stopped § 87(2)(b) and § 87(2)(b) another group of unidentified officers drove by in a marked vehicle and told § 87(2)(b) to move his double-parked vehicle. These officers then drove away. § 87(2)(b) and § 87(2)(b) got into the vehicle to move it. After they got in, but before § 87(2)(b) had a chance to turn on the engine, Sergeant Leite and Police Officer Cioffi arrived along with several other officers. Sergeant Leite and Police Officer Cioffi ordered them to step out of the vehicle. The officers walked them to the rear of the vehicle.

§ 87(2)(b) and § 87(2)(b) stated that an officer frisked § 87(2)(b) at the rear of the vehicle after Police Officer Cioffi removed him from the vehicle. § 87(2)(b) however, stated that either Sergeant Leite or Police Officer Cioffi searched him by reaching into his pockets, but did not pat down his clothing before doing so.

Sergeant Leite and Police Officer Cioffi both stated that they received a description over the radio of a male with a gun in front of § 87(2)(b). Sergeant Leite recalled only that the suspect was identified as either a black male or a Hispanic male. The description included information about the suspect's clothing, but Sergeant Leite did not recall these details. Police Officer Cioffi stated that the suspect was described as a black male wearing a shirt with a floral print on it. He further stated that the suspect had placed his firearm inside a vehicle parked at the location.

Both officers stated that § 87(2)(b) and § 87(2)(b) were sitting in the front seats of a vehicle double-parked in front of § 87(2)(b). Several other civilians stood on the sidewalk by these vehicles. Sergeant Leite also stated that there were two other vehicles double-parked there and that these vehicles were also occupied. Police Officer Cioffi stated that § 87(2)(b) seated in the front passenger's seat of § 87(2)(b) vehicle, matched the description from the radio. No aspects of his appearance contradicted the description. None of the other civilians matched the description. Sergeant Leite did not recall if any of the civilians, either inside or outside of the parked vehicles, matched the description. Sergeant Leite stated that when he and Police Officer Cioffi approached § 87(2)(b) vehicle, he detected an odor of burning marijuana coming from inside. He did not make any other observations about the vehicle suggesting that there was marijuana inside. Police Officer Cioffi made no mention of any odors or other signs of marijuana during the incident.

Both officers stated that, at some point during the incident, Police Officer Cioffi looked up the ICAD information associated with the radio report and located the 911 caller's phone number. Police Officer Cioffi contacted the 911 caller. Sergeant Leite did not participate in the conversation. The 911 caller told Police Officer Cioffi that he was watching the incident from a nearby window. The 911 caller identified § 87(2)(b) vehicle as the one containing the suspect. Both officers initially stated that they did not recall whether Police Officer Cioffi contacted the 911 caller before or after they had stopped the civilians and searched the vehicle. Later, Sergeant Leite stated that the call took place before the stop. Police Officer Cioffi, however, later stated that the call took place after he had already searched the vehicle. Police Officer Cioffi stated that the caller also provided

his name during this conversation, though he did not recall what it was. Sergeant Leite did not recall if the 911 caller identified himself.

Sergeant Leite and Police Officer Cioffi stated that they asked the civilians to exit the vehicle and then searched the vehicle in order to locate the alleged firearm. Police Officer Cioffi also cited this as the reason he frisked § 87(2)(b). The officers searched the passenger's cabin of § 87(2)(b) vehicle, which included the areas under all of the seats. They did not recall if the search included any closed compartments, such as the glove compartment. Both officers stated that Police Officer Cioffi located a spent 9mm shell casing from the back seat as well as several bottles of alcohol. Police Officer Cioffi stated that one of the bottles, which contained tequila, was open. Sergeant Leite did not recall if any of the bottles were open. Sergeant Leite also alleged that he found "fanta" leaves, a type of leaf used to wrap marijuana cigarettes. No marijuana was found.

The police radio recording associated with this incident is attached in IA #53 (Board Review #11). At the start of the recording, the dispatcher states that a report was made by an anonymous caller of a suspicious male with a firearm at § 87(2)(b). The dispatcher describes the suspect as a black male with a beard and braided hair wearing a plaid shirt. The dispatcher did not know the color of the shirt. She further states that the suspect is with a group of males who were blocking the street. She did not describe any of the other males. She also reports that the caller was watching the suspect from a nearby window and wished to remain anonymous. An officer then asks the dispatcher to repeat the description. The dispatcher repeats back the same information without addition or alteration.

All of the civilian video footage obtained from this incident begins after § 87(2)(b) and § 87(2)(b) were removed from § 87(2)(b) vehicle. None of it appears to depict the officers' initial approach on the vehicle or the subsequent search (Board Review #05-07).

BWC footage from Sergeant Leite, Police Officer Cioffi and several other officers who responded to the incident is attached in IA #30 (Board Review #03). The footage shows that Sergeant Leite and Police Officer Cioffi approached § 87(2)(b) vehicle immediately and removed the two occupants. At 1:20 into Police Officer Cioffi's BWC footage, he is shown asking § 87(2)(b) to exit the vehicle. When § 87(2)(b) exits, Police Officer Cioffi frisks him by patting him around his lower torso, waist and legs. At 1:50 into his recording, Police Officer Cioffi and Sergeant Leite start searching the interior of the vehicle. An open bottle is seen on the floor by the front passenger's seat. Several other bottles are seen during the search, but they appear to be sealed. At 4:30 into the recording, Police Officer Cioffi makes a phone call to an unspecified party. He asks, "Yeah, sir? Can you hear me? Okay. Goodbye." The other person's words are not heard. At 5:30 into the recording, Police Officer Cioffi lifts up the rear seat. He then remarks that there is a spent round under the seat. A small metallic cylinder is visible under the seat. At 6:30 into the recording, Police Officer Cioffi makes another call to an unspecified party and asks for their first name. It is unclear what, if anything, the other party says in reply.

Police Officer Cioffi was shown his BWC footage during his CCRB interview. He identified the person he spoke to on the two phone calls depicted therein as the 911 caller. He stated that during the first call, the 911 caller told him that he had stopped the right people. During the second call, the 911 caller provided Police Officer Cioffi with his first name. Police Officer Cioffi did not recall what the 911 caller's name was.

Both the civilian and BWC footage from this incident shows that § 87(2)(b) and § 87(2)(b) are both black males with short hair. Neither has any facial hair. § 87(2)(b) wore a black T-shirt with blue lines on the front, while § 87(2)(b) wore a white shirt with a palm tree pattern on it. The

various videos also show that § 87(2)(b) vehicle was the only civilian vehicle double-parked at

§ 87(2)(b)

Based on the order of events shown in Police Officer Cioffi's BWC footage, the investigation determined that Police Officer Cioffi did not contact the 911 caller until after the stop, § 87(2)(b) frisk, and the vehicle search.

Due to the lack of corroboration from Police Officer Cioffi or the civilians, the investigation did not credit Sergeant Leite's claim that he detected an odor of marijuana emanating from § 87(2)(b) vehicle.

Information provided to the police by an anonymous 911 caller can provide probable cause when the 911 caller is believed to be reliable and has a sufficient basis of knowledge for the information provided to the police. An anonymous 911 caller who is observing an incident as it unfolds is considered to be a reliable witness and to possess a sufficient basis of knowledge for these purposes. Officers may conduct a warrantless search of a vehicle and its occupants when they possess probable cause based on such an anonymous report. People v. Warren, 124 A.D. 2d 699 (App. Term, 2nd Dept., 2015) (Board Review #12).

§ 87(2)(g)

§ 87(2)(g) The police radio recording identified the suspect as a black male with braided hair, a beard, and a plaid shirt. Both § 87(2)(b) and § 87(2)(b) are black males, but neither has braided hair or a beard, and neither was wearing a plaid shirt. Neither, therefore, can be considered a strong match for the description. While § 87(2)(b) and § 87(2)(b) were at the exact location identified by the 911 caller, there were several other civilians present there, including § 87(2)(b) who were not stopped or frisked.

While the BWC footage does not capture what the 911 caller said to Police Officer Cioffi over the phone, the order of events shows that any information he provided was received after the stop, the frisk and the vehicle search had already taken place. § 87(2)(g)

Police Officer Cioffi's calls also demonstrate that the officers had access to the 911 caller's information from the start. The officers did not, however, use this information to verify the suspect's identity with the 911 caller before acting.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite pointed his gun at § 87(2)(b)

Allegation (D) Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Cioffi pointed his gun at § 87(2)(b)

Allegation (E) Force: At § 87(2)(b) in Brooklyn, officers pointed their guns at § 87(2)(b)

It is undisputed that Sergeant Leite and Police Officer Cioffi approached § 87(2)(b) vehicle. Several other officers from the 63rd Precinct were with them at the time, but Sergeant Leite and Police Officer Cioffi were the only ones who approached the vehicle while the civilians were

inside.

§ 87(2)(b) stated that Sergeant Leite and Police Officer Cioffi both had their guns drawn and pointed at his vehicle as they approached. He did not mention any other officers drawing or pointing firearms. § 87(2)(b) stated that several officers of the officers who were present at the start of the incident drew and pointed their weapons at § 87(2)(b) vehicle. He was not able to describe any of these officers. He denied that Police Officer Cioffi, who told him to exit the vehicle, drew his gun. § 87(2)(b) stated that all of the officers who were present during the incident pointed their guns at § 87(2)(b) vehicle.

Sergeant Leite and Police Officer Cioffi both denied drawing or pointing their firearms during the incident. They denied seeing any other officers do so.

All of the civilian video footage obtained from this incident begins after § 87(2)(b) and § 87(2)(b) were removed from § 87(2)(b) vehicle. None of it depicts the officers' initial approach on the vehicle. None of the officers are seen holding firearms in the civilian videos (Board Review #05-07).

BWC footage from Sergeant Leite and Police Officer Cioffi, as well as from eight other officers who responded to this incident, is attached in IA #30 (Board Review #03). None of these videos depict an officer holding a firearm at any point. Most of the officers' footage depicts them exiting their respective vehicles and approaching § 87(2)(b). These officers, including Sergeant Leite and Police Officer Cioffi are seen holding radios or flashlights in hand when they exit their vehicles and approach § 87(2)(b). Of the officers who did record the incident, Police Officer Dean Perez was the only officer whose video did not record his initial approach on the civilians' vehicles. His first video begins after § 87(2)(b) and § 87(2)(b) were removed from § 87(2)(b) vehicle.

The investigation determined that none of the officers drew or pointed firearms at any civilians during this incident. The officers' BWC footage show that they were carrying innocuous objects such as flashlights and radios when they approached § 87(2)(b) vehicle. None were seen carrying weapons at any point. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite frisked § 87(2)(b)

Allegation (H) Abuse of Authority: At § 87(2)(b) in Brooklyn, Sergeant Gary Leite searched § 87(2)(b)

It is undisputed that Sergeant Leite and Police Officer Cioffi ordered § 87(2)(b) and § 87(2)(b) to exit the vehicle.

§ 87(2)(b) stated that once he and § 87(2)(b) exited the vehicles, officers walked them to the rear of the vehicle. There, Sergeant Leite frisked him by patting down the entirety of his body. He then reached into § 87(2)(b) front pants pockets. Sergeant Leite did not remove anything from the pockets. Sergeant Leite did not conduct any further examination of § 87(2)(b) person.

§ 87(2)(b) stated that when he exited the vehicle, he noticed another officer patting § 87(2)(b) legs, hips and arms. He did not know which officer patted § 87(2)(b) down. He did not see any officers reach into § 87(2)(b) pockets.

§ 87(2)(b) stated that he observed an officer § 87(2)(b) by patting down his entire body. He did not recall what the officer looked like or what areas they patted. The officer then reached into § 87(2)(b) pants pockets and removed his wallet and cell phone.

Sergeant Leite stated that after § 87(2)(b) and § 87(2)(b) exited the vehicle, he frisked § 87(2)(b) on his legs, waistband, chest and over his pants pockets. He did not recall finding anything.

Police Officer Cioffi stated that he was focused on § 87(2)(b) when the civilians exited the vehicle. He did not see if Sergeant Leite or any other officers frisked or searched § 87(2)(b). He was not aware of officers removing anything from § 87(2)(b) person.

Sergeant Leite's and the other officers' BWC footage is attached in IA #30 (Board Review #03). At 1:15 into the recording, Sergeant Leite approaches § 87(2)(b) at the driver's side of the vehicle and asks him to exit. § 87(2)(b) complies. Sergeant Leite then directs him to go to the rear of the vehicle. § 87(2)(b) goes to the rear of the vehicle. Sergeant Leite immediately turns to the vehicle and starts searching the interior. He does not appear to make contact with § 87(2)(b). None of the other officers' BWC videos show an officer frisking or searching § 87(2)(b) until several minutes later, after Sergeant Leite and Police Officer Cioffi searched § 87(2)(b) vehicle and decided to take § 87(2)(b) and § 87(2)(b) into custody.

§ 87(2)(g)

Allegation (I) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Michael Cioffi searched § 87(2)(b)

§ 87(2)(b) stated that when the officers walked them to the rear of the vehicle, either Sergeant Leite or Police Officer Cioffi searched him by reaching into his pants pockets and removing his wallet, phone and passport. This officer did not pat the exterior of § 87(2)(b) pockets before reaching inside. While this happened, § 87(2)(b) noticed another officer patting § 87(2)(b) legs, hips and arms. He did not know which officer patted § 87(2)(b) down. He did not see any officers reach into § 87(2)(b) pockets.

§ 87(2)(b) stated that Sergeant Leite frisked § 87(2)(b) by patting down his entire body and then reaching into his pants pockets. Sergeant Leite removed a cell phone from one of § 87(2)(b) pants pockets. He did not remove anything else.

§ 87(2)(b) stated that he observed an officer § 87(2)(b) by patting down his entire body. He did not recall what the officer looked like or what areas they patted. The officer then reached into § 87(2)(b) pants pockets and removed his wallet and cell phone.

Police Officer Cioffi stated that he frisked § 87(2)(b) on the passenger's side. He denied searching § 87(2)(b). He did not recall reaching into § 87(2)(b) pockets or removing any objects from § 87(2)(b). Sergeant Leite did not recall if Police Officer Cioffi frisked § 87(2)(b). He was not aware of Police Officer Cioffi searching § 87(2)(b) or removing any objects from his person.

Sergeant Leite did not recall if any officers frisked or searched § 87(2)(b). He did not know if any officers removed any items from § 87(2)(b) person.

Police Officer Cioffi's BWC footage is attached in IA #30 (Board Review #03). At 1:20 into the

footage, § 87(2)(b) is sitting in the front passenger's seat of § 87(2)(b) vehicle, holding a cell phone in his hand. Police Officer Cioffi takes the phone from § 87(2)(b) hand and places it on the dashboard. He then tells § 87(2)(b) to exit the vehicle. § 87(2)(b) complies. Police Officer Cioffi pats him around his lower torso, waist and legs. At 1:40 into the recording, Police Officer Cioffi tells § 87(2)(b) to move to the rear of the vehicle. He is not seen reaching inside § 87(2)(b) pockets or removing any items from § 87(2)(b) person.

All the civilian video footage obtained from this incident begins after § 87(2)(b) and § 87(2)(b) were removed from § 87(2)(b) vehicle. None of the videos depict an officer frisking or searching either of them when they exit the vehicle or stand at the rear of § 87(2)(b) vehicle (Board Review #05-07).

§ 87(2)(g)

Allegation (K) Abuse of Authority: At the 63rd Precinct stationhouse in Brooklyn, Sergeant Gary Leite searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that Sergeant Leite and Police Officer Cioffi first searched § 87(2)(b) vehicle at § 87(2)(b). This search covered the vehicle's passenger cabin. The officers then drove § 87(2)(b) vehicle to the 63rd Precinct stationhouse and searched it a second time. This second search included the vehicle's trunk as well as its engine block. Nothing was recovered during the second search.

§ 87(2)(b) and § 87(2)(b) were in custody inside the stationhouse during the second vehicle search. § 87(2)(b) did not travel to the stationhouse. None of the civilians mentioned the second vehicle search.

As discussed above, Sergeant Leite and Police Officer Cioffi stated that they first searched § 87(2)(b) vehicle at § 87(2)(b) because they suspected that the armed suspect described by the 911 caller had been inside the vehicle. During their search, Police Officer Cioffi found a shell casing from the back seat and an open bottle of liquor by the front passenger's seat, both of which are seen on his BWC footage. After the search, Police Officer Cioffi called an unspecified individual on his cell phone. Police Officer Cioffi explained that he called the 911 caller, who confirmed that they had stopped the correct vehicle. The 911 caller could not be contacted to confirm Police Officer Cioffi's account of the call.

Sergeant Leite and Police Officer Cioffi stated that the discovery of the shell casing heightened their suspicion that there was a firearm in the vehicle. Because there were several other civilians present at § 87(2)(b) they both decided to transport § 87(2)(b) vehicle to the stationhouse, where he could conduct a fuller search under more controlled circumstances. Sergeant Leite and Police Officer Cioffi conducted the second search at the stationhouse by themselves. This search included another check of the passenger cabin, as well as the vehicle's trunk. Police Officer Cioffi further stated that he searched underneath the vehicle's hood, around the engine block. The officers did not find anything during the second search.

The officers' BWC footage from this incident, including the second vehicle search at the stationhouse, is attached in IA #30 (Board Review #03). The footage shows that Sergeant Leite and

Police Officer Cioffi conducted the second search with assistance from Police Officer Daniel Diaz and Police Officer John Brennan, also of the 63rd Precinct. The search includes the vehicle's interior, the trunk and the engine block.

Information provided to the police by an anonymous 911 caller can provide probable cause when the 911 caller is believed to be reliable and has a sufficient basis of knowledge for the information provided to the police. An anonymous 911 caller who is observing an incident as it unfolds is considered to be a reliable witness and to possess a sufficient basis of knowledge for these purposes. Officers may conduct a warrantless search of a vehicle and its occupants when they possess probable cause based on such an anonymous report. People v. Warren, 124 A.D. 2d 699 (App. Term, 2nd Dept., 2015) (Board Review #12).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories


- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party (Board Review #13).
- Sergeant Leite has been a member of the service for twelve years and has been listed as a subject officer in ten CCRB complaints and twenty-three allegations, two of which were substantiated.
 - 201212775 involved a substantiated allegation of discourtesy (word). The Board recommended that he received a command discipline. The NYPD imposed command discipline A.
 - 201603474 involved a substantiated allegation of stop. The Board recommended that he received formalized training. The NYPD imposed formalized training.
 - § 87(2)(g)
- Police Officer Cioffi has been a member of the service for four years and has been listed as a subject officer in three other CCRB complaints and thirteen allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of November 24, 2020, neither § 87(2)(b) nor § 87(2)(b) filed a Notice of Claim regarding this incident with the NYC Office of the Comptroller.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 15

Investigator:	<u>Owen Godshall</u>	<u>Inv. Owen Godshall</u>	<u>8/31/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>10/07/21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date